

# *City of Las Vegas*

## **AGENDA MEMO**

**CITY COUNCIL MEETING DATE: MAY 20, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-32873 - APPLICANT/OWNER: ANTONIO AND CRISTINA SOSA**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE MAY 6, 2009 CITY COUNCIL MEETING AT THE REQUEST OF STAFF.***

### **\*\* CONDITIONS \*\***

The Planning Commission (6-0 vote) and staff recommend DENIAL.

#### **Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-9895) and Site Development Plan Review (SDR-9894) shall be required, if approved.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow 16 parking spaces where 24 are required for the conversion of 500 square feet of Office to a Restaurant use on 0.56 acres at 1499 North Lamb Boulevard. This represents a 33.3% deviation from the standard. The proposed conversion of 500 square feet of Office to a Restaurant use represents a significant increase in the amount of required parking. Staff finds that this request is the result of a self-imposed hardship as the applicant is proposing a new use which is too intense for the subject site; therefore, denial of this request is recommended.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
07/28/83	The Board of Zoning Adjustment approved a request for a Variance (V-0069-83) to allow a Child Care Facility with a maximum of 40 children at 4400 East Van Buren Avenue.
09/22/83	The Board of Zoning Adjustment approved a Review of Condition [V-0069-83(1)] to delete Condition #4 of an approved Variance which requires a sprinkler system for landscaping at 4400 East Van Buren Avenue.
09/22/88	The Board of Zoning Adjustment approved a Variance (V-0114-88) to change the legal frontage of the property from Van Buren Avenue to Lamb Avenue and a Plot Plan Review [V-0114-88(1)] for a proposed building addition located at 4400 East Van Buren Avenue.
11/20/90	The Board of Zoning Adjustment approved a Review of Condition [V-0114-88 (2)] to reduce required parking on property located at 1499 North Lamb Boulevard.
02/01/06	The City Council approved a request for a Rezoning (ZON-9895) from R-E (Residence Estates) to N-S (Neighborhood Service) and a Site Development Plan Review (SDR-9894) for an existing 1,929 square-foot commercial building and a Waiver to allow a trash enclosure eight feet from a residential property line where 50 feet is the minimum distance allowed at 1499 North Lamb Boulevard. The Planning Commission and staff recommended approval of these requests.
03/26/09	The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #13/dc).

<b><i>Related Building Permits/Business Licenses</i></b>	
<i>c. 1957</i>	A single-family residence was constructed on the subject property.
08/25/06	A building permit (#06005527) was issued for a tenant improvement at 1499 North Lamb Boulevard, consisting of both suites on-site. The permit received final approval 04/11/07.

08/25/06	A building permit (#06005526) was issued for a façade addition at 1499 North Lamb Boulevard. The permit received final approval 03/23/07.
12/13/06	A building permit (#06007356) was issued for a trash enclosure with roof. The permit received final approval on 04/04/07.
12/13/06	A building permit (#06007355) was issued for onsite improvements and hardscapes at 1499 North Lamb Boulevard. The permit expired 09/29/07 without receiving final approval.
02/15/07	A building permit (#07000621) was issued for a sign at 1499 North Lamb Boulevard. The permit received final approval on 02/23/07.
04/27/07	A business license (#C07-03683) was issued for a clothing store at 1499 North Lamb Boulevard Suite #110. The license was marked out on 06/27/07.
05/03/07	A business license (#B05-03402) was issued for a two-station nail salon at 1499 North Lamb Boulevard Suite #120. The license is still active.
05/03/07	A business license (#B08-01189) was issued for beauty product sales at 1499 North Lamb Boulevard Suite #120. The license is still active.
05/04/07	A business license (#B05-03044) was issued for a six-chair beauty salon at 1499 North Lamb Boulevard Suite #120. The license is still active.
05/04/07	A business license (#B08-01192) was issued for beauty product sales at 1499 North Lamb Boulevard Suite#120. The license is still active.
08/03/07	A business license (#I04-03455) was issued for an insurance office at 1499 North Lamb Boulevard Suite #110. The license was marked out on 11/05/08.
11/19/07	A business license (#R05-00563) was issued for a hot dog stand at 1499 North Lamb Boulevard Suite #120. The license is still active.

<b><i>Pre-Application Meeting</i></b>	
12/30/08	A pre-application meeting was held with the applicant where the submittal requirements of a Parking Variance were discussed.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not held, nor was one required.	

<b><i>Field Check</i></b>	
02/18/09	A field check was conducted by staff at the subject site. The subject property was observed to currently house a beauty salon, nail shop and an accounting office. No business license was found for the accounting firm. Several non-permitted temporary signs (advertising flags and a portable sign) were noted on-site. Additionally, the employee patio at the southeast corner of the building has been converted into two parking spaces which do not meet the requirements of Title 19.10.



<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	0.56

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Retail	SC (Service Commercial)	N-S (Neighborhood Service)
North	Mobile Home Park	M (Medium Density Residential)	R-MHP (Residential Mobile/Manufactured Home Park)
South	Multi-Family Residential	M (Medium Density Residential)	R-3 (Medium Density Residential)
East	Duplex	M (Medium Density Residential)	R-2 (Medium-Low Density Residential)
West	Multi-Family Residential	M (Medium Density Residential)	R-PD18 (Residential Planned Development – 18 Units per Acre)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	N/A
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>		X	N/A
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

***Pursuant to Title 19.10, the following parking standards apply:***

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
General Personal Service – Barber/Beauty Shop	6 Chairs	2 spaces/barber chair	12				

General Personal Service – Nail Salon	2 Stations	2 spaces/ station	4				
Restaurant, Less than 2,000 square feet (without Drive- Through)	500 SF	1 space/50 sf of public seating and waiting, 1 space/each 200 sf of remaining floor area with a min. of 10 spaces required	10				
<i>(Office, Other than Listed)****</i>	<i>(500 SF)****</i>	<i>(1 space/300 SF)****</i>	<i>(2)****</i>				
<b>SubTotal</b>			23	1	15	1	N*
<b>TOTAL</b>			24***		16		N*
Loading Spaces			0		0		Y**
Percent Deviation					33.3%		N*

\* The applicant has submitted this Variance to allow 16 parking spaces where 24 are required.

\*\* Site Development Plan Review (SDR-9894) was approved to allow zero loading zones on the subject property.

\*\*\* When calculating the required parking for the subject site, staff followed the guidelines of Title 19.10.010(C)(1) which states, “for any change of use that requires an increase in the number of required parking spaces, only the increased number of parking spaces shall be required.” There are 16 existing parking spaces. The proposed Restaurant use has a current parking requirement of 10 parking spaces; two of the spaces are already provided on-site for the previous Office use, leaving a deficiency of 8 spaces for the proposed Restaurant use, and an overall requirement of 24 spaces for the center.

\*\*\*\* These figures represent the required parking for the previous office use on site. The required spaces from this use are subtracted from the parking requirements of the existing and proposed uses.

## ANALYSIS

This is a request for a Variance to allow 16 parking spaces where Title 19.04.010 requires 24 spaces for the conversion of an existing 500 square feet of Office space to a Restaurant use. The 500 square-foot suite proposed for the conversion is located within an existing 1,929 square-foot commercial building, which currently houses an existing beauty salon and nail salon. A previous

Site Development Plan Review (SDR-9894) approved 16 parking spaces for a beauty salon and 729 square feet of office at the subject property. The applicant has since reduced the Office area

from 729 square feet to 500 square feet, and placed a nail salon within the 229 square feet of former Office space. The applicant is now proposing to convert the remaining 500 square feet of Office space to a Restaurant use.

The proposed Restaurant requires 10 parking spaces, at a ratio of one parking space per 50 square feet of public seating and waiting area and one parking space for each 200 square feet of remaining floor area with a minimum of 10 spaces required. As the proposed Restaurant is only 500 square feet, 10 parking spaces are required. When calculating the required parking for the subject site, staff followed the guidelines of Title 19.10.010(C)(1) which states, "for any change of use that requires an increase in the number of required parking spaces, only the increased number of parking spaces shall be required." There are 16 existing parking spaces. The proposed Restaurant use has a current parking requirement of 10 parking spaces; two of the spaces are already provided on-site for the previous Office use, leaving a deficiency of 8 spaces for the proposed Restaurant use, and an overall requirement of 24 spaces for the center.

Staff notes that the applicant has indicated two additional 90-degree parking spaces at the southeast corner of the existing building. A field check confirmed that two parking spaces have been constructed in this area; however, these parking spaces do not meet the minimum requirements of Title 19.10 and can not be counted as additional parking. The driveway aisle which serves these parking spaces was verified as being only 15 feet in width, whereas Title 19.10 requires a minimum width of 24 feet for 90-degree parking spaces accessed by a one-way driveway aisle. Additionally, no modification to the approved Site Development Plan Review was performed to permit these parking spaces, and this area had originally been designated as an employee patio at the time this building was approved. As these parking spaces at the southeast corner of the building do not meet the minimum requirements of Title 19.10, they cannot be counted towards the required site parking.

Staff finds that the proposed conversion of 500 square feet of Office to a Restaurant use to be a much more intense use than what was originally approved for the existing site. This conversion creates the need for an additional eight parking spaces within a commercial center that only offers a total of 16 parking spaces for all of its' tenants. Staff finds that this request is the result of a self-imposed hardship as the applicant is proposing a new use which is too intense for the subject site; therefore, denial of this request is recommended.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."



Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by reallocating approved office space to a more-intense restaurant use. Utilizing the building within the parameters as to which it was originally approved would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

#### **PLANNING COMMISSION ACTION**

There were four speakers in opposition of this project at the Planning Commission Meeting.

#### **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

2

**ASSEMBLY DISTRICT** 14

**SENATE DISTRICT** 2

**NOTICES MAILED** 648 by City Clerk

**APPROVALS** 2

**PROTESTS** 2